

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

4:15-CR-3079

vs.

ORDER

DARRELL W. JENKINS,

Defendant.

This matter is before the Court on the defendant's motion to reconsider ([filing 72](#)) asking the Court to reconsider its previous order ([filing 56](#)) denying his motion pursuant to the [First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 \(2018\)](#). The defendant's motion to reconsider will also be denied.

The "compassionate release" provision of the First Step Act permits the Court to consider a sentence reduction on the defendant's motion if the defendant has fully exhausted his administrative remedies and "extraordinary and compelling reasons warrant such a reduction." *See 18 U.S.C. § 3582(c)(1)(A)(i), as amended, § 603(b), 132 Stat. 5194.* The Court previously found, considering the circumstances, that such extraordinary and compelling reasons were not present at that point. [Filing 56](#).

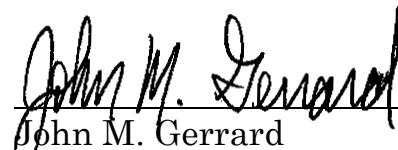
The defendant's present motion cites the COVID-19 pandemic as a basis for relief. *See filing 72.* That is a relevant consideration—but there is no indication that the defendant has exhausted his administrative remedies with respect to that claim, and the Court does not view the administrative exhaustion of an initial request for compassionate release as serving to discharge that requirement for subsequent requests based on different evidence and argument. Simply put, the Court cannot consider a motion for

compassionate release that is based on evidence or arguments that weren't presented to the Bureau of Prisons first. *Cf. McAlphin v. Morgan*, 216 F.3d 680, 682 (8th Cir. 2000).

IT IS ORDERED that the defendant's motion to reconsider ([filing 72](#)) is denied.

Dated this 14th day of April, 2020.

BY THE COURT:



John M. Gerrard
Chief United States District Judge